

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 195

FIRST SESSION OF THE THIRTY-SEVENTH PARLIAMENT

WEDNESDAY, 7 MAY 2008

1. Meeting of Assembly

The Assembly met at 12 noon pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

2. Papers

The following papers were presented and ordered to lie upon the Table of the House –

By the Speaker –

Auditor General, Office of the [OAG] – Audit Results Report on Universities and TAFE Colleges and Other Audits Completed since 19 November 2007, Report No. 2 May 2008 (3829).

By the Clerk –

Agriculture and Related Resources Protection Act 1976 – Local Laws (Shire of Plantagenet – Pest Plants Amendment Local Law 2008 G.G. 11/04/2008) (3830).

Animal Welfare Act 2002 – Regulations (Animal Welfare (Commercial Poultry) Regulations 2008 G.G. 29/04/2008) (3831).

Bush Fires Act 1954 – Local Laws (Shire of Plantagenet – Bush Fire Brigades Amendment Local Law 2008 G.G. 11/04/2008) (3832).

Cemeteries Act 1986 – Local Laws (Shire of Plantagenet – Cemeteries Local Law 2008 G.G. 11/04/2008) (3833).

Consumer Credit (Western Australia) Act 1996 – Justice Legislation Amendment Bill (Queensland) 2008, in accordance with section 6B (1) of the Act (Received by the Clerk of the Legislative Assembly and deemed tabled 6 May 2008) (3834).

Dangerous Goods Safety Act 2004 – Notices (Dangerous Goods Safety Exemption Notice 2008 G.G. 18/04/2008) (3835).

Dividing Fences Act 1961 – Local Laws (Town of Vincent Fencing Local Law 2008 G.G. 15/04/2008) (3836).

Dog Act 1976 – Local Laws (Shire of Plantagenet – Dogs Local Law 2008 G.G. 11/04/2008) (3837).

Emergency Management Act 2005 – Regulations (Emergency Management Amendment Regulations (No. 2) 2008 G.G. 29/04/2008) (3838).

Energy Safety Act 2006 – Notices (Energy Safety Levy Notice 2008 G.G. 29/04/2008) (3839).

Gaming and Wagering Commission Act 1987 – Regulations (Gaming and Wagering Commission Amendment Regulations 2008 G.G. 29/04/2008) (3840).

Health Act 1911 – Local Laws (City of Canning Eating Houses Local Law 2008 G.G. 15/04/2008) (3841).

Health Act 1911 – Regulations (Health (Meat Hygiene) Amendment Regulations 2008 G.G. 02/05/2008) (3842).

Liquor Control Act 1988 – Regulations (Liquor Control (Wangkatjungka Restricted Area) Regulations 2008 G.G. 22/04/2008) (3843).

Liquor Control Act 1988 – Regulations (Liquor Control Amendment Regulations (No. 2) 2008 G.G. 22/04/2008) (3844).

Liquor Control Act 1988 – Regulations (Liquor Control Amendment Regulations 2008 G.G. 02/05/2008) (3845).

Local Government (Miscellaneous Provisions) Act 1960 – Regulations (Building Amendment Regulations (No. 2) 2008 G.G. 18/04/2008) (3846).

Local Government Act 1995 – Local Laws (Shire of Dardanup Amendment Local Law 2008 G.G. 08/04/2008) (3847).

Local Government Act 1995 – Local Laws (Shire of Plantagenet – Extractive Industries Local Law 2008 G.G. 11/04/2008) (3848).

Local Government Act 1995 – Local Laws (Shire of Plantagenet – Landfill and Transfer Station Facilities Amendment Local Law 2008 G.G. 11/04/2008) (3849).

Local Government Act 1995 – Local Laws (Shire of Plantagenet – Local Government Property Local Law 2008 G.G. 11/04/2008) (3850).

Local Government Act 1995 – Local Laws (Shire of Plantagenet – Parking and Parking Facilities Local Law 2008 G.G. 11/04/2008) (3851).

Local Government Act 1995 – Local Laws (Shire of Plantagenet – Standing Orders Amendment Local Law 2008 G.G. 11/04/2008) (3852).

Local Government Act 1995 – Local Laws (Shire of Wagin Unsightly Land and Refuse, Rubbish or Disused Material on Land Local Law 2008 G.G. 02/05/2008) (3853).

Local Government Act 1995 – Local Laws (Town of Vincent Local Government Property Local Law 2008 G.G. 15/04/2008) (3854).

Local Government Act 1995 – Local Laws (Town of Vincent Trading in Public Places Local Law 2008 G.G. 15/04/2008) (3855).

Magistrates Court Act 2004 – Rules (Magistrates Court (General) Amendment Rules 2008 G.G. 08/04/2008) (3856).

Education and Health Standing Committee – Ministerial response from Minister for Indigenous Affairs to the Education and Health Standing Committee's Report on Initiatives in the Remote Indigenous Communities of the Torres Strait Region, Report No. 12, 4 February 2008 (3857).

State Superannuation Act 2000 – Regulations (State Superannuation Amendment Regulations (No. 3) 2008 G.G. 11/04/2008) (3858).

Stock Diseases (Regulations) Act 1968 – Regulations (Enzootic Diseases Amendment Regulations (No. 2) 2008 G.G. 29/04/2008) (3859).

Weapons Act 1999 – Regulations (Weapons Amendment Regulations (No. 2) 2008 G.G. 11/04/2008) (3860).

3. Notices of Motion

4. Brief Ministerial Statements

The following Brief Ministerial Statements were made by –

The Attorney General on the Review of Part 2 Division 3A of the *Restraining Orders Act 1997*.

Paper

The following paper was presented and ordered to lie upon the Table of the House -

By the Attorney General –

Restraining Orders Act 1997 – A Review of Part 2 Division 3A of the *Restraining Orders Act 1997*, May 2008 (3861).

The Minister for Sport and Recreation on the 2008 FINA World Masters Championships held in Perth during April 2008.

5. Joint Standing Committee on Delegated Legislation – Committee Membership

The Leader of the House, pursuant to notice, moved,

- (1) That the appointment by the Speaker on 10 April 2008 of the Member for Murray to the Joint Standing Committee on Delegated Legislation to fill the vacancy caused by the Member for Serpentine-Jarrahdale's resignation is confirmed.
- (2) That the Legislative Council be acquainted accordingly.

Question put and passed.

6. Consumer Credit (Western Australia) Code Regulations Amendment Order 2008

The Minister for Consumer Protection, pursuant to notice, moved,

- (1) That this House approves the draft *Consumer Credit (Western Australia) Code Regulations Amendment Order 2008*, a copy of which was laid on the Table of the House on 6 May 2008.
- (2) That the Legislative Council be acquainted accordingly and invited to pass a similar resolution.

Debate ensued.

Question put and passed.

7. Fatal Accidents Amendment Bill 2008

The Order of the Day for the third reading of the bill having been read, the Attorney General moved, That the bill be now read a third time.

Question put and passed.

Bill read a third time and forwarded to the Legislative Council for concurrence.

8. Road Traffic Amendment Bill 2008

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Debate resumed.

Question put and passed.

Bill read a second time.

CONSIDERATION IN DETAIL

Clauses 1 to 4 agreed to.

Clause 5.

Mr R.F. Johnson moved,

Page 3, after line 2 – To insert –

“

(a) by inserting after the definition of “Commissioner” –

“

“drink driving offence” means any of the following —

- (a) an offence against section 63; or
- (b) an offence against section 59, 59A, 60 or 61 where the circumstance of aggravation is driving under the influence of alcohol;

”
.”

Amendment put and negatived.

Clause agreed to.

Clauses 6 to 11 agreed to.

New Clauses.

Mr R.F. Johnson moved,

Page 10, after line 12 – To insert –

“

12. Section 80 amended

Section 80 (1) is repealed and the following subsection is inserted instead —

“

- (1) A court that convicts a person of an impounding offence (driving) shall, by order, impound the vehicle used in the offence for a period of 3 months starting on the date on which —
 - (a) the vehicle is surrendered; or
 - (b) under section 78C, the vehicle is conveyed to the place where it is to be stored.

”.

13. Section 80A amended

Section 80A is amended by deleting “may” and inserting instead —

“ shall ”.

”.

Debate interrupted by the Chair and adjourned until a later stage of the sitting.

9. Speaker's Statement - Budget Day Arrangements

The Speaker advised members that he had agreed to the request by the Leader of the House to alter arrangements for Thursday to enable the State budget to be presented at 2.00 p.m.. Private Members' Statements would be taken at 12.20 p.m. and would be immediately followed by Questions Without Notice at 12.30 p.m.

10. Questions

Questions without notice were taken.

Questions on notice Nos 3342 to 3350 were asked.

Questions on notice Nos 3152, 3287, 3288, 3290, 3293 and 3313 were answered.

11. Additional Information under Standing Order No. 82A

In accordance with Standing Order No. 82A, the Minister for Police and Emergency Services provided additional information relating to a question without notice No. 201 from Mr D.T. Redman in relation to a police response time to a home invasion at Cranbrook.

12. Human Reproductive Technology Amendment Bill 2007

Message No. 206 dated 6 May 2008 from the Legislative Council was reported that with respect to the *Human Reproductive Technology Amendment Bill 2007* it has declined to read the Bill a second time.

13. Variation to the Order of Business

Ordered, That Government Business Order of the Day No. 2 be next considered.

14. Road Traffic Amendment Bill 2008

The Order of the Day for the further consideration in detail of the bill was read.

CONSIDERATION IN DETAIL

Mr R.F. Johnson had moved, To insert new clauses 12 and 13 [see paragraph No. 8].

Amendments put and negatived.

Clause 12.

Mr R.F. Johnson moved,

Page 10, lines 14 to 16 – To delete the words after “Section 80B(1) is “ and substitute –

“

is repealed and the following subsection inserted instead —

“

- (1) A court that convicts a person of an impounding offence (driver's licence) shall, by order, impound a vehicle referred to in section 80GA for a period of 3 months starting on the date on which —
 - (a) the vehicle is surrendered; or
 - (b) under section 78C, the vehicle is conveyed to the place where it is stored.

”
”
”

Amendment put and negatived.

Clause agreed to.

Clauses 13 and 14 agreed to.

Clause 15.

Mr R.F. Johnson moved,

Page 11, lines 2 to 4 – To delete the words after “is amended” and substitute –

“

by —

- (a) by deleting “may’ and inserting instead –
“ shall ”; and
- (b) deleting “the vehicle that the offender was using.” and inserting instead –
“ a vehicle referred to in section 80GA. ”.

”.

Amendment put and negatived.

Clause agreed to.

New clause.

Mr R.F. Johnson moved,

Page 11, after line 5 – To insert –

“

16. Section 80CC inserted

After section 80CB the following section is inserted—

“

80CC. Confiscation of vehicles for drink driving offences

If a person whose licence is suspended or cancelled as a penalty for a drink driving offence, commits an offence against section 49 of driving without a driver’s licence the court shall, by order, confiscate the vehicle used in the offence.

”.

”.

Amendment put and negatived.

Clauses 16 to 21 agreed to.

Clause 22.

Mr R.F. Johnson moved,

Page 15, lines 16 to 21 – To delete the words after “is amended” and substitute –

“

by —

- (a) inserting after the definition of “confiscated vehicle” –

“

“**dispose**” includes the crushing of a confiscated or uncollected vehicle or use of the such a vehicle by police in covert operations; ”.

- (b) inserting after the definition of “item” —

“

“**net proceeds of sale**” means any such sum by which the proceeds of sale exceed the aggregate of such sum as may be payable under subsection (7) in respect to the impoundment and confiscation of the vehicle; ”.

- (c) in the definition of “uncollected vehicle” deleting “2 months’ and inserting instead —

“ 28 days ”.

”.

- (2) Section 80J(4)(a) is amended by deleting “the” before “responsible person” and inserting instead —

“ each ”.

- (3) After section 80J(6) the following subsection is inserted —

“

- (6A) Where the Commissioner disposes of a vehicle by means of sale, the Commissioner shall pay the net proceeds of the sale to any person who, before the end of the period of 12 months beginning with the date on which the vehicle is sold, satisfies the Commissioner that at the time of the sale he was the owner of the vehicle. ”.

- (4) Section 80J(7)(j)(i) is amended by deleting “to the Treasurer of the State for the public uses of the State” and inserting instead —

“

to the credit of the Road Trauma Trust Fund established in accordance with the *Road Safety Council Act 2002* section 12

”.

”.

Amendment put and negatived.

Clause agreed to.

Clauses 23 to 25 agreed to

Title agreed to.

Consideration in detail concluded.

Leave was granted to proceed forthwith to the third reading of the bill.

The Minister for Community Safety moved, That the bill be now read a third time.

Question put and passed.

Bill read a third time and forwarded to the Legislative Council for concurrence.

Sitting suspended from 3.54 p.m. to 4.00 p.m.

15. Variation to the Order of Business

Ordered, That Private Members’ Business Order of the Day No. 19, Private Members’ Business Notices of Motions Nos 1 and 3 be next considered.

16. Children and Community Services Amendment (Body Piercing) Bill 2007

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Debate resumed.

Question put and passed.

Bill read a second time.

The Minister representing the Minister for Child Protection moved,

“

- (1) That this Bill be referred to the Community Development and Justice Standing Committee;
- (2) That the Member for Alfred Cove be co-opted to the Community Development and Justice Standing Committee for the purposes of reviewing this Bill; and
- (3) That the Committee report to the House by 25 September 2008.

”.

Question put and passed.

17. Disallowance of the Fish Resources Management Amendment Regulations (No. 8) 2006

Mr G. Snook, pursuant to notice, moved,

That regulations 3 and 10 of the *Fish Resources Management Amendment Regulations (No. 8) 2006* under the *Fish Resources Management Act 1994*, a copy of which was laid upon the Table of the House on 21 November 2006, are hereby disallowed.

Debate ensued.

Question put.

The Assembly divided.

Ayes (17)

Mr C.J. Barnett
Mr M.J. Birney
Mr T.R. Buswell
Mr G.M. Castrilli
Mr M.J. Cowper
Mr J.H.D. Day

Dr K.D. Hames
Ms K. Hodson-Thomas
Mr J.E. McGrath
Mr P.D. Omodei
Mr C.C. Porter
Mr D.T. Redman

Mr A.J. Simpson
Mr G. Snook
Ms S.E. Walker
Mr G.A. Woodhams
Dr G.G. Jacobs (*Teller*)

Noes (27)

Mr P.W. Andrews
Mr J.J.M. Bowler
Mr A.J. Carpenter
Mr J.B. D’Orazio
Dr J.M. Edwards
Mrs J. Hughes
Mr J.N. Hyde
Mr J.C. Kobelke
Mr R.C. Kucera

Mr F.M. Logan
Mr J.A. McGinty
Mr M. McGowan
Ms S.M. McHale
Mr A.D. McRae
Mrs C.A. Martin
Mr M.P. Murray
Mr P. Papalia
Ms M.M. Quirk

Ms J.A. Radisich
Mr E.S. Ripper
Mrs M.H. Roberts
Mr T.G. Stephens
Mr D.A. Templeman
Mr P.B. Watson
Mr M.P. Whitely
Mr B.S. Wyatt
Mr S.R. Hill (*Teller*)

Question thus negatived.

18. Notice of Motion after the Time Prescribed

The Leader of the House was granted leave to give a late notice of motion.

19. Adjournment

The Leader of the House moved, That the House do now adjourn.

Question put and passed.

The Assembly adjourned accordingly, at 7.02 p.m. until Thursday, 8 May 2008 at 9.00 a.m.

Members present during any part of the day's proceedings – All the members except Mr D.F. Barron-Sullivan, Mr B.J. Grylls and Mr J.R. Quigley.

PETER J. McHUGH

Clerk of the Legislative Assembly

HON. FRED RIEBELING

Speaker of the Legislative Assembly